

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 1999-179-C - ORDER NO. 1999-823
NOVEMBER 19, 1999

IN RE: Application of Legacy Long Distance) ORDER ✓
International, Inc. for a Certificate of Public) GRANTING
Convenience and Necessity to Provide) CERTIFICATE
Intrastate Resold Interexchange)
Telecommunications Services within the State)
of South Carolina.

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of Legacy Long Distance International, Inc. (“Legacy” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide intrastate resold telecommunications services between and among locations within the State of South Carolina as a non facilities-based interexchange telecommunications service provider. The Company’s Application was filed pursuant to S.C. Code Ann. § 58-9-280 (Supp. 1998) and the Regulations of the Public Service Commission of South Carolina.

The Commission’s Executive Director instructed Legacy to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Legacy’s Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this instruction and provided the

Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on October 27, 1999, at 10:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable Philip T. Bradley, Chairman, presided. Bonnie D. Shealy, Esquire, represented the Company. Jocelyn D. Green, Staff Counsel, represented the Commission Staff.

Clay Beamesderfer, Director of Operations, appeared and testified in support of the Application. As Director of Operations, Mr. Beamesderfer's job responsibilities include overseeing operations and customer service. Legacy is a three-year-old company that is based in Long Beach, California. The Company plans to offer the following type services in South Carolina: 1+ direct dialed calls, 0+ calls, toll-free services, operator-assisted services, and travel card services. The Company's travel card is not a debit card. Instructions appear on the card for the customer's convenience in addition to the customer's access number. Mr. Beamesderfer testified Legacy will provide its services primarily to hotels and motels. However, the Company will not refuse to provide its services to other businesses and residential customers.

Legacy has received certification to provide long distance service in approximately eighteen states. The Company is currently providing its services in all eighteen states; the underlying carrier in these eighteen states is MCI/WorldCom. Legacy began offering its services in California, Texas, Florida, Arkansas, and Oklahoma in 1996. According to Mr. Beamesderfer, Legacy is operating in good standing in all the states where it is providing its services.

Legacy's management staff consists of four people. The President and Chief Executive Officer is Mr. Curtis Brown. Mr. Brown is responsible for any regulatory aspect of the Company; he is also the regulatory contact person for the Company. Mr. Kenneth Durante is the Chief Financial Officer and his job duties include overseeing the financial aspects of the Company; Mr. Durante is responsible for responding to questions regarding the Company's financial status. Mr. George Hansel, Vice President of Sales and Marketing, oversees the sales team and any new marketing package that is distributed by the Company. Finally, Mr. Beamesderfer, as Director of Operations, is responsible for customer relations and carrier correspondence. All of the officers at Legacy had telecommunications experience before becoming employed with the Company.

Regarding the Company's technical services, Legacy has its own switch in California. MCI/WorldCom will operate as the Company's underlying carrier. Legacy will not hire employees in South Carolina to handle technical issues. According to Mr. Beamesderfer, MCI/WorldCom will respond to complaints within fifteen minutes and then contact Legacy within thirty minutes.

Most of Legacy's revenue is derived from its 1+ and 0+ services. The record reveals that as for the month of September 1999, the Company had a net income of \$39,613.00. For nine months ended for the year 1999, the Company's net income totaled \$64,082.00.

Legacy will market its services to hotel management groups by using inside sales representatives and mailers. The Company will not market residential customers directly. A written letter of authorization is used when a customer switches from one long distance carrier to Legacy. When the Company does provide residential services, its residential

customers verify their desire to become a Legacy customer through a written letter of authorization. Legacy also uses VERITECH, a third party verification company, that is based in San Antonio, Texas.

Mr. Beamesderfer testified further that when call records are received from MCI/WorldCom, the records are run through Legacy's billing system and bills are mailed from Legacy. There are a few customers who are billed through the local phone company; however, customers who are billed by a local exchange carrier are primarily residential customers.

Legacy operates a customer service department in California. The customer service department's hours are from 8:00 a.m. until 5:00 p.m. pacific standard time. The Company also has a toll-free number for a toll-free pager that is in operation twenty-four hours. Incoming calls that utilize the toll-free pager are responded to within thirty minutes.

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Legacy is organized as a corporation under the laws of the State of California and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. Legacy operates as a non facilities-based reseller of interexchange services and wishes to provide its services in South Carolina.

3. Legacy has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Legacy to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through its own facilities and through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for Legacy for its resale of interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Legacy shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. Legacy shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE

Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 1998).

4. If it has not already done so by the date of issuance of this Order, Legacy shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. Legacy is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Legacy shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Legacy changes underlying carriers, it shall notify the Commission in writing.

8. Legacy shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Legacy shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

10. With regard to the provision of inmate calling services for local and intraLATA toll calling, Legacy shall not charge rates any greater than the rates charged by the local exchange carrier at the time a call is placed. For interLATA toll calls, Legacy shall not charge rates greater than the rates charged by AT&T Communications – South Carolina. Additionally, automated collect calls shall only be completed with the affirmative acceptance by the called party. The Company shall not impose any property-imposed fee on calls originating from inmate confinement facilities.

For inmate calling services, call detail information submitted to the local exchange company for billing purposes must include the telephone number associated with the Pay Telephone Access Line as assigned by the local exchange company.

For intrastate 0+ operator-assisted and calling card calls originated from pay telephones outside confinement facilities and aggregator locations, Legacy may not impose an operator service charge greater than the intrastate charges then currently

approved for AT&T. For the usage portion of the call, Legacy may not charge more than the intrastate rates charged by AT&T Communications or BellSouth at the time the call is completed.

Legacy should be allowed to incorporate in its tariff a surcharge (property imposed fee) on operator-assisted and calling card calls not to exceed \$1.00 for calls originated from payphone (excluding pay telephones associated with inmate calling service) and from aggregator locations only if the property owner has not added a surcharge already. That is, Legacy may not impose an additional surcharge to calls originating from payphones and from aggregator locations if a property owner has already imposed such a surcharge. If such a surcharge is applied on behalf of a property owner, the Company should pay the surcharge in its entirety to the property owner. Further, if the surcharge is applied, the user should be notified of the imposition of the surcharge. This notification should be included in the information pieces identifying the Company as the operator service provider.

Legacy is required to provide information pieces to pay telephone service providers or property owners identifying the company as the provider of operator service for authorized calls originated from the location. Legacy is required to brand all calls identifying itself as the carrier. The information pieces shall be consistent with the format approved by the Commission in Order No. 93-811, issued in Docket No. 92-557-C.

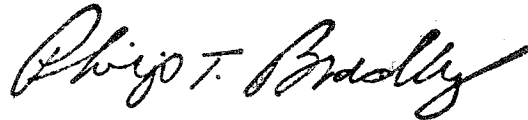
For the provision of operator services, Legacy shall comply with the Operator Service Provider Guidelines approved in Order No. 93-534, issued in Docket No. 93-026-C.

11. With regard to the origination and termination of toll calls within the same LATA, Legacy shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), and 47 CFR 51.209.

12. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

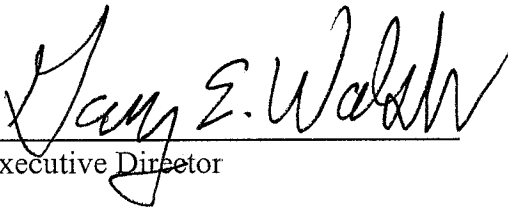
13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Executive Director

(SEAL)

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ATTACHMENT A

**ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S**

COMPANY NAME

FEI NO.
ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR
12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- * THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF
CONSTRUCTION AND CUSTOMER DEPOSITS.
- (4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING
_____.
- * THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.
- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT
OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS
METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3
ABOVE).

SIGNATURE

NAME (PLEASE TYPE OF PRINT)

TITLE

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ATTACHMENT B

**INFORMATION OF THE AUTHORIZED UTILITY
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission
the name, title, address, and telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by Signature

If you have any questions, contact the Consumer Services Department at 803-896-5230